

REMARKS/ARGUMENTS

In the Office Action, the Examiner noted that claims 1-20 are pending in the application and that claims 1-20 are rejected. By this amendatory response and request for reconsideration, claims 1-20 remain pending in this application.

Rejections Under 35 U.S.C. §103

Claims 1-3, 6-10, 13-17 and 20 are rejected under 35 U.S.C. §103(a) as being unpatentable over *Hayward, et al.* (U.S. Patent 6,629,134) in view of *Haines, et al.* (U.S. Patent 6,529,692). Claims 4-5, 11-12, and 18-19 are rejected under 35 U.S.C. §103(a) as being unpatentable over *Hayward, et al.* (U.S. Patent 6,629,134) in view of *Haines, et al.* (U.S. Patent 6,529,692) and further in view of *Sekizawa* (U.S. Patent 6,681,349).

Applicant traverses this rejection on the basis that *Haines, et al.* (U.S. Patent 6,529,692) is NOT an appropriately cited reference under 35 U.S.C. §103(a) as the present application was filed on December 8, 2000 and the cited reference of *Haines, et al.* (U.S. Patent 6,529,692) was filed on November 10, 2000, and the invention was by the same inventors. Accordingly, the *Haines, et al.* (U.S. Patent 6,529,692) reference does not qualify as prior art under any one of 35 U.S.C. §102 a-g. More particularly, 35 U.S.C. §102 (e) requires that the invention be described in a patent granted on an application for patent by ANOTHER filed in the united States before the invention by the applicant for patent. In this case, the present application and the cited prior each have the same six inventors.

Secondly, even if two HAD been developed by another person, under 35 U.S.C. §103(c), the invention of the present application and the cited reference *Haines, et al.* (U.S. Patent 6,529,692) have the same assignee and were "at the time the invention was made" commonly owned which is sufficient to disqualify the prior art under 35 U.S.C. §103(c).

Pursuant to MPEP 706.02(l)(1), subject matter developed by another person, which qualifies as prior art only under one or more of subsections (e), (f), and (g) of section 102 of this title, shall not preclude

patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

Accordingly, a *prima facie* case of obviousness had NOT been established by the Examiner, the rejections are believed to be in error, and withdrawal of these rejections is respectfully requested.

Rejection Under 35 U.S.C. §112, first paragraph

Claims 4, 11, and 18 are rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claims 4, 11, and 18 contain the terminology "consisting of", according to MPEP 2111.03, defined as "closing the claim to the inclusion of materials other than those recited except for impurities ordinarily associated therewith". The specification fails to include the list of information that was particularly declared in claims 4, 11 and 18.

Claims 4, 11 and 18 have been amended to overcome the 35 U.S.C. §112, first paragraph rejection. Secondly, the recited limitations of claims 4, 11 and 18 have been added at page 26, line 15. Support for the amended to the specification can be found at least in claim 4 as originally filed. Accordingly, the rejections to claims 4, 11 and 18 are believed to be overcome.

Withdrawal of these rejections is respectfully requested.

CONCLUSION

For all the reasons advanced above, Applicants respectfully submit that the application is in condition for allowance, and action to that end is respectfully requested. If the Examiner's next anticipated action is to be anything other than a Notice of Allowance, the undersigned respectfully requests a telephone interview before issuance of any such subsequent action.


Respectfully submitted,

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By: _____


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